REMARKS

Claims 1 to 17 were pending in the application at the time of the second examination. Claims 1, 6, 11, 12, and 13 stand rejected as anticipated. Claims 1 to 10 and 13 to 17 stand rejected as obvious.

Applicant has amended Claims 1, 6 and 13 to expressly recite the action indicated by the preamble within the body of the claim. Accordingly, the amendments do not require consideration of new issues or a new search. The amendments were made to avoid discussion on whether Applicant was requesting the Examiner to read limitations into the claim based upon the wording within the claim.

Claim 11 is modified to clarify the merging driver structure. The properties recited were inherent based upon the disclosure and so should have been considered in interpreting the claim language. Nevertheless, this amendment also is made to avoid discussion on whether Applicant was requesting the Examiner to read limitations into the claim based upon the words within the claim.

Claims 11 and 12 stand rejected as being clearly anticipated by U.S. Patent No. 5,475,836, hereinafter referred to as Harris. The Examiner stated in part:

> a driver for each data source in the plurality of data sources [or more drivers 6(1) through 6(M), Fig 1; col. 4, lines 6-19] thereby forming a plurality of drivers wherein each driver has a substantially identical driver application programming interface [see Abstract, Fig. 1]

Applicant respectfully traverses the anticipation rejection of Claim 1. Fig. 1 fails to provide any detail concerning the structure of the drivers. The Abstract stated:

> . . . a plurality of driver means, each of said drivers corresponding to a different subgroup of the plurality of external data sources/sinks . . .

The MPEP requires for an anticipation rejection that Harris show "The identical invention ... in as complete detail as is contained in the ... claim." MPEP § 2131, 8th Ed., Rev. 2, p 2100-73, (May 2004). The sections of Harris cited by the Examiner fail to teach anything about the internal structure of the drivers and in particular fail to teach "a plurality of drivers wherein each driver has a substantially identical driver application programming interface." This distinction alone is sufficient to overcome the anticipation rejection.

Further, the Examiner has failed to cite any teaching that interface 2 of Harris "distributes a single query to each driver in said plurality of drivers so that said plurality of data sources are accessed by said single query." Accordingly, on multiple levels, Harris fails to anticipate Claim 11. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 11 in view of Harris.

Claim 12 depends from Claim 11 and so distinguishes over Harris for at least the same reasons as Claim 11. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 12 in view of Harris.

Claims 1, 6, 11, and 13 remain rejected as anticipated by PCT International Publication No. WO 97/33239, hereinafter referred to as Tabuchi. Applicant respectfully traverses each of these rejections.

In maintaining the rejection, the Examiner stated in part:

> . . . the interface driver of Tabuchi [p. 8, lines 2-5] provides access to multiple databases which reads on the claimed merging driver.

Applicant respectfully submits that this mischaracterizes the claim language and ignores explicit claim limitations. Applicant does not recite simply providing "access to multiple databases," but rather in Claims 1, 6, and 13 recited:

> accessing an associated data source in said plurality
> of data sources by said each driver in response to said
> merging driver access though said API,
> > wherein said single access operation enabled
> access of said plurality of data sources; and
> > said single access operation is performed for
> each of said plurality of data sources.

Thus, a single access operation results in access of the plurality of data sources. In the rejection, the Examiner must cite some teaching in Tabuchi that a single access results in a plurality of databases being accessed with that single access. As previously pointed out in the prior response and incorporated herein by reference Tabuchi taught that the user must fashion a direct search request for each selected database.

Further, at page 17, line 36 to page 18, line 4, Tabuchi shows that different accesses are made to different databases based upon a query and so teaches a fundamentally different operation from that recited in each of the Claims 1, 6, 11, and 13. This teaches away from Applicant's invention, because a single access operation is received by the merging driver and the merging driver accesses the driver for each database that in turn performs the single access operation for the appropriate database. In Claim 11, this access is specifically recited as a query. Applicant requests reconsideration and withdrawal of the anticipation rejection of each of Claims 1, 6, 11, and 13 in view of Tabuchi.

Claims 1 to 10 and 13 to 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of U.S. Patent No. 6,026,392, hereinafter referred to as Kouchi. Applicant notes that in this rejection, the Examiner relied upon the same portion of Harris as in the anticipation rejection of Claim 11.

Applicant noted above that:

> The sections of Harris cited by the Examiner fail to
> teach anything about the internal structure of the drivers

and in particular fail to teach "a plurality of drivers wherein each driver has a substantially identical driver application programming interface."

Accordingly, Harris fails to suggest the driver as recited in Claims 1 to 10 and 13 to 17, in addition to the deficiency of Harris as noted by the Examiner in the obviousness rejection.

Next, the Examiner characterizes "main process 802" of Kouchi as "a merging driver." However, Applicant respectfully submits that those of skill in the art do not consider "a main process" as a driver, but rather execution of a particular section of software. Kouchi is careful to maintain a distinction between a driver and the main process.

This is because a main process for "conversion of one or more data sources into one or more uniform databases" and a driver are fundamentally different. Further, the Examiner has cited no teaching in Kouchi that "main process 802" receives "said single access operation."

Thus, the Examiner must first modify Kouchi to turn a main process into a driver, even though the reference makes a distinction between the two, and then modify the main process further to receive a single access operation. The requirements of the MPEP for an obviousness rejection state " FACT THAT REFERENCES CAN BE COMBINED OR MODIFIED IS NOT SUFFICIENT TO ESTABLISH *PRIMA FACIE* OBVIOUSNESS." (Emphasis in Original). The MPEP requires that a teaching from the prior art be used to justify the required modifications to Kouchi in addition to the justification for combining the references.

Hence, not only does the secondary reference fail to correct the shortcomings of the primary reference, but also the combination of references is inappropriate based upon the MPEP requirements for modifying the teachings in a reference. Applicant requests reconsideration and withdrawal of the obviousness rejection of Claim 1.

Claim 2 depends from Claim 1 and so distinguishes over the combination of references for at least the same reasons as

Claim 1. Applicant requests reconsideration and withdrawal of the obviousness rejection of Claim 2.

Claim 3 depends from Claim 2 and so distinguishes over the combination of references for at least the same reasons as Claims 1 and 2. Applicant requests reconsideration and withdrawal of the obviousness rejection of Claim 3.

Claims 4 and 5 depend from Claim 1 and so distinguish over the combination of references for at least the same reasons as Claim 1. Applicant requests reconsideration and withdrawal of the obviousness rejection of each of Claims 4 and 5.

Claim 6 stands rejected as obvious for the same reasons as given above for Claim 1. The above remarks with respect to Claim 1 are applicable to Claim 6, and are incorporated herein by reference. Applicant requests reconsideration and withdrawal of the obviousness rejection of Claim 6.

Claims 7 to 10 depend from Claim 6 and so distinguish over the combination of references for at least the same reasons as Claim 6. Applicant requests reconsideration and withdrawal of the obviousness rejection of each of Claims 7 to 10.

Claim 13 stands rejected as obvious for the same reasons as given above for Claim 1. The above remarks with respect to Claim 1 are applicable to Claim 13, and are incorporated herein by reference. Applicant requests reconsideration and withdrawal of the obviousness rejection of Claim 13.

Claims 14 to 17 depend from Claim 13 and so distinguish over the combination of references for at least the same reasons as Claim 13. Applicant requests reconsideration and withdrawal of the obviousness rejection of each of Claims 14 to 17.

Claims 1 to 17 remain in the application. Claims 1, 6, 11, and 13 have been amended. For the foregoing reasons, Applicant respectfully requests allowance of all pending claims. If the Examiner has any questions relating to the

above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant.
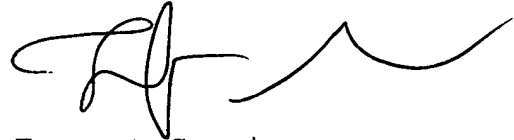
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 26, 2005.

Respectfully submitted,

_____ January 26, 2005
Attorney for Applicant(s)   Date of Signature

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